

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

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Applicant's or agent's file reference 69506-013	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/US04/27186	International filing date (day/month/year) 20 August 2004 (20.08.2004)	Priority date (day/month/year) 20 August 2003 (20.08.2003)
International Patent Classification (IPC) or national classification and IPC IPC: G01N 21/00(2006.01);B65B 31/00(2006.01),61/00(2006.01) B65B 55/04(2006.01) USPC: 250/453.11,454.11,455.11,492.3;53/410,425,426;422/24		
Applicant MULTIVAC, INC.		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>3</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p style="margin-left: 20px;">a. <input checked="" type="checkbox"/> (sent to the applicant and to the International Bureau) a total of <u>13</u> sheets, as follows:</p> <div style="margin-left: 40px;"> <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. </div> <p style="margin-left: 20px;">b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p> <p>4. This report contains indications relating to the following items:</p> <div style="margin-left: 20px;"> <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application </div>		
Date of submission of the demand 20 June 2005 (20.06.2005)	Date of completion of this report 30 May 2006 (30.05.2006)	
Name and mailing address of the IPEA/ US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201	Authorized officer <i>Phonon for Bell</i> David A. Vanore Telephone No. 571-272-2483	

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/US04/27186

Box No. I Basis of the report

1. With regard to the language, this report is based on:

- ☒ the international application in the language in which it was filed.
- ☐ a translation of the international application into English, which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
- ☐ publication of the international application (under Rule 12.4(a))
- ☐ international preliminary examination (under Rules 55.2(a) and/or 55.3(a))

2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-12 as originally filed/furnished
- pages* 13-18 received by this Authority on 20 June 2005 (20.06.2005)
- pages* NONE received by this Authority on _____
- ☒ the claims:
- pages NONE as originally filed/furnished
- pages* NONE as amended (together with any statement) under Article 19
- pages* 19-25 received by this Authority on 20 June 2005 (20.06.2005)
- pages* NONE received by this Authority on _____
- ☒ the drawings:
- pages 1-5 as originally filed/furnished
- pages* NONE received by this Authority on _____
- pages* NONE received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to the sequence listing (*specify*): _____

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to the sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/US04/27186

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>1-33</u>	YES
	Claims <u>NONE</u>	NO
Inventive Step (IS)	Claims <u>1-33</u>	YES
	Claims <u>NONE</u>	NO
Industrial Applicability (IA)	Claims <u>1-33</u>	YES
	Claims <u>NONE</u>	NO

2. Citations and Explanations (Rule 70.7)

Claims 1-33 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.

Claims 1-33 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest the product packaging and treatment apparatus recited in claims 1, 11, and 23. The most relevant prior art applicable to the aforementioned independent claims is that of Smith (USPN 5,477,660). Smith fails to teach or suggest the inclusion of an electron beam or x-ray irradiation apparatus to treat products formed by the packaging device disclosed therein. While Peck et al. (USPN 5,396,074) discloses an irradiation apparatus for foodstuffs and medical implants (Note Col. 1 of Peck et al.) there is no motivation to combine the irradiation apparatus disclosed therein with the packaging device of Smith. Therefore, claims 1, 11, and 23 meet the criteria of PCT Article 33(2)-(3) where claims 2-10, 12-22, and 24-33 meet the same criteria by virtue of their dependency.